



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

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NEW DELHI, FRIDAY, JULY 21, 2017/ASHADHA 30, 1939 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 21st July, 2017:—

### I

#### BILL No. XII OF 2017

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2017.

Short title,  
and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. After article 21A of the Constitution, the following article shall be inserted, namely:—

Insertion of  
new article  
21B.

“21B. The State shall provide affordable adequate housing to all citizens in such manner as the State may, by law, determine”.

Right to  
housing.

## STATEMENT OF OBJECTS AND REASONS

Housing is a basic human need. It is considered to be vital for human survival and essential for socio-economic development. India with a population of over 1.21 billion people, is the second most populous nation in the world. According to UN-HABITAT, India is home to sixty three per cent of all slum dwellers in South Asia. This amounts to 170 million people, seventeen per cent of the world's slum dwellers. India's per capita income although rising, ranks 124th in the world. Approximately thirty five per cent of India's population still earns rupees sixty or less per day. Census 2011 reported 1.77 million homeless people across India or 0.15 per cent of the country's total population.

The right to housing is the right to live in adequate shelter in security, peace and dignity. It is not merely having a roof over one's head, rather it requires an accessible habitable space that fulfills the basic human needs to personal space, security, adequate lighting and ventilation, safe structure, protection from weather besides its location, all at reasonable cost. Therefore it is the duty of the State to provide affordable adequate housing for all citizens.

In order to achieve the task, it is felt necessary that a provision should be made in the Constitution as part of the fundamental rights for the purpose. The Bill seeks to achieve the above objectives.

Hence, this Bill.

K.K. RAGESH

## FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to make affordable adequate housing to all citizens a fundamental right. The Bill if enacted will involve expenditure from the Consolidated Fund of India. However, at this stage it will be difficult to make an estimate of such expenditure, both recurring and no-recurring. The exact amount can be worked out only when the provisions of the Bill are implemented.

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## II

### BILL No. XX OF 2017

*A Bill to regulate the acceptance of unsolicited proposals from the private sector through Swiss Challenge method of procurement in respect of infrastructure project in the country and for matters connected herewith or incidental thereto.*

WHEREAS it is essential to adhere to general principles of transparency, economy and fairness in the award of contracts for infrastructure projects by public authorities;

AND WHEREAS the Constitution guarantees the Equality before law under article 14 to all persons and the right to carry on any occupation, trade or business under article 19 (1)(g) to all its citizens;

AND WHEREAS the Swiss challenge method of procurement creates information asymmetry and bidding asymmetry between original proponent and its competitors thus violating Fundamental Rights under article 14 and article 19 (1)(g) of the Constitution;

AND WHEREAS the Committee on Revisiting and Revitalising Public Private Partnership Model of Infrastructure has also recommended that Swiss Challenge method of procurement should be actively discouraged;

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Privately Financed Infrastructure Projects (Regulation of Swiss Challenge Method of Procurement) Act, 2017.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act and in any rules made thereunder, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "contracting authority" means the public authority having power to enter into a concession contract for the implementation of an infrastructure project;

(c) "developer" means any private sector participant who has entered into a contract for the infrastructure project with the appropriate Government or a local Authority;

(d) "infrastructure facility" means public work relating to infrastructure for utilising the natural resources and providing services by either public works of physical structure or systems for facilities or commodities or utilisation of resources or provision of services;

(e) "infrastructure project" means the design, construction, development and operation of new infrastructure facilities and includes the rehabilitation, modernisation, expansion or operation of existing infrastructure facilities;

(f) "Swiss challenge method" means processing of an unsolicited proposal submitted by a private sector participant (whereby called original project proponent) for undertaking an infrastructure project not initiated by the appropriate Government or a local authority having following characteristics:—

(i) The appropriate Government or the local authority invites competitive counter proposals on the proposal submitted by original project proponent;

(ii) The applicants submitting counter proposals are having opportunities to better the proposal of the original project proponent;

(iii) The appropriate Government a Committee, if finds one of the competitive counter proposal better than proposal of the original project proponent, the original project proponent is given opportunity to match that counter proposal to win the project; and

(iv) If the original project proponent does not match that counter proposal, the project is awarded to applicant submitting that counter proposal.

(g) "unsolicited proposal" means any proposal relating to the implementation of an infrastructure project that is not submitted in response to a request or solicitation issued by the contracting authority within the context of a selection procedure and which is submitted by any private sector participant to the appropriate Government or a Local Authority in respect of any infrastructure in the State supported by project specifications, technical, commercial and financial viability and *prima facie* evidence of the financial and technical ability of such private sector participant to undertake such project with full details of composition of the private sector participant and his financial and business background.

Basic norms  
for  
infrastructure  
projects.

3. The contracting authority shall, in relation to an infrastructure project, have the responsibility and accountability to,—

- (a) ensure efficiency, economy and transparency;
- (b) provide fair and equitable treatment to bidders;
- (c) promote competition;
- (d) ensure that the price of successful bid is reasonable and consistent with the quality required; and
- (e) evolve mechanisms to prevent corrupt practices.

Developer  
selection  
process.

4. The contracting authority shall ensure adequate competition in the developer selection process for any infrastructure project.

Regulation of  
Swiss  
challenge  
method of  
procurement.

5. (1) Notwithstanding anything contained in any other law for the time being in force, but save as hereinafter provided no contracting authority shall adopt the procedure of Swiss challenge method for any infrastructure project:

Provided that the contracting authority may notify the projects which may be awarded under Swiss challenge method and no case, such project shall exceed an amount of rupees one hundred crore.

(2) The appropriate Government shall frame rules regarding in general and not being limited to the following:—

- (a) the nature of Swiss challenge method and its particulars;
- (b) the nature of projects that may come under such method;
- (c) the authorities to be approached with respect to the project plans;
- (d) the various fields of the projects that may be considered under the method;
- (e) time limits on the approval of the project and respective bidding:

Provided that no such project shall be proposed for Swiss challenge method unless such project is approved by a Committee duly constituted for the purpose as may be prescribed with such public notice as is necessary for the project.

Power to  
make rules.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

## STATEMENT OF OBJECTS AND REASONS

The role of private sector in the development and management of infrastructure projects has increased manifold in the recent years. This has created the challenge of ensuring economy, transparency and fairness in awarding of contracts for infrastructure projects in order to uphold democratic functioning of the country.

The Constitutional Bench of the Supreme Court of India in Natural Resource Allocation, in Re, Special Reference No. 1 of 2012 held that the allocation of any resources of a country should meet the twin constitutional tests, viz. the natural resources that vest in the State should be allocated to sub-serve the common good; and the allocation should not be considered arbitrary and thus be violative of article 14 of the Constitution. The Constitutional bench also held that auction is the preferable method for allocation of projects and any deviation from auction must be justified by compelling reasons and not just by convenience.

However, Governments have been increasingly using the Swiss challenge procurement method for infrastructure projects under this method, the original project proponent submits an unsolicited proposal for undertaking the project and then the Government invites competitive counter proposals. The Swiss challenge procurement route creates informational asymmetry and bidding asymmetry between the original proponent and its competitors, thus creating avenues for rent seeking. While the world over, modern tools of disposal of public authority have increasingly been adopted, having regard to the fact that a level-playing field is to be ensured for all citizens to participate in projects involving private participation, it is necessary that except in exigency, or projects requiring performance of highly advanced technological process, Swiss-challenge method of awarding projects ought to be done away with. It is also necessary that a detailed prior study is undertaken by a designated authority to lay down parameters on the basis of which a State or State undertaking can be legitimately enabled to resort to such process with in-built safeguards against any favouritism against any entity.

Therefore in order to ensure transparency, economy and fairness in the awarding of contracts for infrastructural projects, the Swiss challenge method should be regulated.

Hence this Bill.

V. VIJAYASAI REDDY

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for the purposes of this Bill. The rules relate to matters of details only.

The delegation of legislative power is of a normal character.



### III

#### BILL NO. XXIII OF 2017

*A Bill to protect individual liberty, right of association, movement and bodily integrity and the right of adults to choose their own partners in marriage and to prevent victimisation by prohibiting unlawful assemblies and other conducts interfering with matrimonial alliances in the name of honour and tradition and for the matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Crimes in the name of Honour and Tradition and Prohibition of Interference with the Freedom of Matrimonial Alliances Act, 2017.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Declaration of  
Rights of  
persons.

2. (1) For the removal of doubts, it is hereby declared that all persons including young persons and women have the following rights—

- (a) right to control their own lives;
- (b) right to liberty and freedom of expression;
- (c) right of association, movement and bodily integrity; and
- (d) right to choose their own partners in marriage or otherwise.

(2) Any action by any person or group of persons that restricts or prevents the exercise of the rights referred to in sub-section (1) shall be an offence under this Act.

Unlawful  
Assembly.

3. (1) No person or any group of persons shall gather, assemble or congregate at any time with the view or intention of condemning any marriage, not prohibited by law, on the basis that such marriage has dishonoured the caste or community tradition or brought disrepute to all or any of the persons forming part of the assembly or the family or the people of the locality concerned.

*Explanation.*—In this Section, the expression—

- (i) 'Marriage' shall include a proposed or intended marriage; and
- (ii) 'gather', 'assemble' or 'congregate' shall include acting in concert through the use of any technological means or mediums.

(2) Such gathering or assembly or congregation shall be treated unlawful and every person convening or organising such assembly and every member thereof participating therein, directly or indirectly, shall be punished with imprisonment for a term of not less than six months but which may extend to one year and shall also be liable to fine up to ten thousand rupees.

Honour  
killing.

4. If any person or a group of persons, who is or are members of the family of the couple, who has married or intends to marry, or a person or persons acting in concert with, or at the behest of, a member of the family or a member of a body or a group of the caste or clan or community or caste panchayat (by whatever name called) or a member of unlawful assembly kills a women who has married or intends to marry, or kills the person whom the woman has married or intends to marry or kills any person associated with the couple, or abets, participates or incites such an act of killing, shall be guilty of an offence of murder under the Indian Penal Code, 1860.

45 of 1860.

Criminal  
Intimidation.

5. If any person or a group of persons, who is or are members of the family of the couple, who has married or intends to marry, or a person or persons acting in concert with, or at the behest of, a member of the family, or a member of a body or a group of the caste or clan or community or caste panchayat (by whatever name called) or a member of unlawful assembly indulges in criminal intimidation of the couple or either of them, or the members of their family, or supporters shall be punished with imprisonment for a term of not less than one year, which may extend to three years and shall also be liable to fine up to thirty thousand rupees:

Provided that if the threat be to cause death grievous hurt of the description referred to in second part of section 506 of the Indian Penal Code, then the punishment shall extend to seven years of imprisonment instead of three years and fine up to thirty thousand rupees.

45 of 1860.

*Explanation.*—The expression 'criminal intimidation' includes repeated harassment of the couple or either of them with the view to pressurise them not to meet or associate with each other or live with each other or threatening the couple or either of them or their family or any person associated with them or harbouring them of retributive action of any kind whatsoever.

Harassment and  
endangerment  
of Liberty.

6. If any person or a group of persons, who is or are members of the family of the couple, who has married or intends to marry, or a person or persons acting in concert with, or

at the behest of, a member of the family, or a member of a body or a group of the caste or clan or community or caste panchayat (by whatever name called) or a member of unlawful assembly harasses a woman or her partner, or any person associated with them for exercising the rights as mentioned in section 2 or attempts to prevent either one or both of them from exercising these rights shall be deemed to have acted in the endangerment of their liberty and such an act of endangerment shall be punished with imprisonment for a period of not less than two years and extending up to ten years and fine extending up to fifty thousand rupees.

*Explanation.*—'Endangerment of liberty' shall include the acts of social sanctions, ostracization or social boycott and shall include, but shall not be limited to the following acts,—

- (i) declaring the couple, who have married or intends to marry as brother and sister provided that they are not the children from the same natural parent and such a marriage is recognised by any law or custom for the time being in force;
- (ii) bringing to bear pressure on the couple or their families or any person associated with them or harbouring them to leave the village or area of residence concerned;
- (iii) indulging in any conduct which impedes or is likely to impede, access to markets, community facilities, places of worship or any other necessities of life;
- (iv) divesting or dispossessing the couple or their families, or any persons associated with them or harbouring them of any land or property belonging to them;
- (v) bringing to bear pressure on the couple, or their families or any person associated with them or harbouring them to pay a fine;
- (vi) causing grievous hurt, or injury, or harm to the couple, or either of them, or their families, or any persons associated with them or harbouring them; and
- (vii) any other act or acts of harassment whether physical or mental or psychological.

7. Any two persons who intend to marry or associate with each other may declare their age and willingness to marry or associate, orally or in writing, before any Government official, who shall, on receipt of such information, inform the nearest Police Station and it shall be the responsibility of the police to protect the said couple against any offences mentioned under section 3 to 6 of this Act.

Declaration by a couple of the intention to be together.

2 of 1974.

8. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all village officers, including the Sarpanch and such other officers as may be specified by the Sub-divisional Magistrate or District Magistrate in relation to any area, if they have reason to believe or have knowledge that any of the offences mentioned under sections 3 to 6 is likely to be committed or has been committed shall provide such information to the nearest police station forthwith.

Obligation of certain persons to report an offence.

(2) Any person who fails to report the commission of an offence under sub-section (1) shall be punished with imprisonment of either description which may extend to six months or with fine or with both.

(3) No person shall incur any liability, whether civil or criminal, for giving the information in good faith for the purpose of sub-section (1).

9. (1) The District Magistrate or the Sub-Divisional Magistrate shall receive any request or information from any person or persons seeking protection from any assembly of persons or from members of any family who are likely to or who have been objecting to any lawful marriage.

Power to prohibit certain acts and taking preventing measures.

(2) Where the District Magistrate or the Sub-Divisional Magistrate receives information from any source that there is a likelihood of convening of an assembly openly or in secrecy

to condemn as objectionable any marriage proposed or solemnized, he shall, by order prohibit the convening of such assembly and doing of any act towards the commission of any offence under this Act by any person in any area specified in the order.

(3) The District Magistrate or Sub-Divisional Magistrate may take such steps as may be necessary to give effect to such order including giving appropriate directions to the police authorities concerned.

(4) The District Magistrate or Sub-Divisional Magistrate shall also take such steps as may be necessary to ensure the safety of the persons targeted by an unlawful assembly or by any person or a group of persons, who is or are members of the families of the couple, who has married or intends to marry, or a person or persons acting in concert with, or at the behest of, a member of the family, or a member of a body or a group of the caste or clan or community or caste panchayat (by whatever name called).

(5) The District Magistrate or the Sub-Divisional Magistrate shall be in direct supervision of the protection and safety of the persons concerned and their protection from any offence mentioned in sections 3 to 6 of this Act.

(6) Every official called upon to act in terms of the above provisions shall be accountable for their lapses, omissions or failures and the concerned State Governments shall provide for and take such action against them as may be deemed fit for their lapses, omissions or failure to act.

Offences to be cognizable, non-bailable and non-compoundable.

**10.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973 all offences under this Act shall be cognizable, non-bailable and non-compoundable.

2 of 1974.

Burden of Proof.

**11.** Where any person is prosecuted for an offence under this Act, the burden of proving that he has not committed the offence shall be on the person being prosecuted.

Act not in derogation of any other law.

**12.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

**13. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

There has been an increase in number of crimes being committed against young couples intending to marry or having married, in the name of vindicating the honour of the family, caste or community. The Hon'ble Supreme Court of India in *Lata Singh v. State of Uttar Pradesh* rightly stated that "there is nothing honourable in such crimes, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal feudal-minded persons."

These crimes violate the fundamental rights of citizens including the right to life and liberty, right to bodily integrity and the freedom of movement and expression. They unduly emphasise on framework of 'honour' to control and regulate women's sexuality and their marital choices. Such crimes are also in violation of Article 16(1)(b) of the United Nations Convention on the Elimination of all forms of Discrimination against Women which provides that women should have the right to freely choose a spouse.

The Indian Penal Code, which is currently invoked to book offenders in cases of honour crimes neither covers the entire gamut of illegal actions perpetrated in the name of honour, nor provides for adequate provisions for ensuring protection of the consenting couple. Therefore, the Law Commission of India, in its Report No. 242 had recommended a legal framework to prevent acts endangering the liberty of the couple married or intending to marry and their family members. Furthermore, the Hon'ble Supreme Court of India, in *Arumugam Servai v. State of Tamil Nadu* had held that the District Magistrate/Collector and SSP/SPs of the district as well as other officials concerned should be held accountable for their failure to prevent honour crimes.

Therefore, in view of the need to address the grave concern, the current Bill seeks to provide for protecting the right to life and liberty of consenting adults, prohibition of unlawful assemblies, criminal intimidation, harassment, violence and interference in lawful matrimonial alliances in the name of honour and tradition and establishes power and accountability of District Magistrates and other officials concerned to prevent such crimes.

Hence this Bill.

V. VIJAYASAI REDDY

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of details only, the delegation of legislative powers is of a normal character.

#### IV

#### BILL NO. XIV OF 2017

*A Bill to provide for the removal of hunger and malnutrition and for the prevention of starvation deaths of tribal children including adolescent and young girls and pregnant and lactating women in tribal areas of the country particularly in Maharashtra through a nodal agency at the National and State levels, by formulating a National policy for the purpose and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Tribal Children and Lactating Women in Maharashtra and other States Removal of Hunger, Malnutrition and Prevention of Starvation Deaths Act, 2017. Short title and commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "adolescent girl" means a female human being who has attained puberty and is below the age of eighteen years;

(b) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(c) "girl child" means a female human being who is below the age of twelve years;

(d) "Nodal Agency" means the Nodal Agency constituted under section 4 for the purposes of this Act;

(e) "prescribed" means prescribed by rules made under this Act.

National Policy for the removal of hunger malnutrition and prevention of starvation deaths of tribal children and lactating mothers.

3. (1) Notwithstanding anything contained in any other law for the time being in force, the Central Government shall, as soon as may be, but not later than one year of the commencement of this Act, formulate and publish in the Official Gazette, a National Policy for the overall protection and removal of hunger, malnutrition and prevention of starvation deaths of tribal children and pregnant and lactating tribal women particularly in the tribal areas of Maharashtra and shall take appropriate measures for the uniform implementation of such Policy.

(2) In particular and without prejudice to the generality of the provisions contained in sub-section (1), the National Policy may include provision for,—

(a) conducting surveys, from time to time of the tribal children, pregnant women and lactating mothers in the tribal areas of Maharashtra and other parts of the country who are malnourished, anaemic and underweight and maintaining district wise data thereof in such manner and with such particulars as may be prescribed;

(b) conducting periodic medical examination of every child including girl child and adolescent girls, pregnant as well as lactating mothers covered under this Act and for taking such remedial measures as may be recommended by dieticians and medical authorities;

(c) making it mandatory for the appropriate Government to ensure as well as provide at least two healthy meals per day, milk, seasonal fruits, folic acid and multi vitamin tablets to every malnourished or anaemic and underweight children, girl child, pregnant and lactating women covered under this Act;

(d) providing medical care to the children and women covered under this Act and providing sanitary napkins and proper dresses to adolescent and grown up girls covered under this Act by the appropriate Government in such manner as may be prescribed.

Constitution of a Nodal Agency.

4. (1) The Central Government shall, by notification in the Official Gazette, constitute a Nodal Agency consisting of a Chairperson such number of members representing various fields, such number of officers and staff as may be prescribed, for the purpose of this Act.

(2) The salary and allowances payable to and other terms and conditions of service of the Chairperson, members, officers and staff of the Nodal Agency and procedure to be followed by the Nodal Agency in discharging its functions shall be such as may be prescribed.

(3) The Nodal Agency shall,—

(a) classify tribal areas in each State as high, medium or low burden area with regard to malnutrition, anaemia, hunger, starvation deaths and such other issues as may be prescribed;

(b) set malnutrition, anaemia, hunger eradication targets and time frame for each State in their tribal areas; and



(c) recommend to the Central Government and State Governments having tribal areas within their territorial jurisdiction with regard to the implementation of this Act and framing of rules and regulations as it may consider necessary.

5. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds, from time to time, to the States and Union Territories for carrying out the purposes of this Act.

Central Government to provide requisite funds.

6. The provisions of this act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

Act to supplement other laws.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

Our vast Nation, the second most populous in the globe after China has, unfortunately, the highest number of malnourished and anaemic children including girl child, adolescent girls, women including pregnant and lactating mothers. The problem is more acute in the tribal areas of our country.

In Maharashtra alone, every monsoon over 40,000 children slip into malnutrition in tribal dominated Nandurbar. Due to persistent hunger, anaemia amongst the girl child, adolescent girls, pregnant women and lactating mothers is prevalent not only in Nandurbar but also in almost all the tribal areas of the country. Starvation deaths, though generally denied by the Government authorities, are also reported from time to time not only in tribal areas of Maharashtra but also from other States too.

On record there are at least 15 schemes to augment the nutrition of children and mothers in Nandurbar but on ground, due to lack of funds for these schemes, the road out of hunger is paved with failures. Union Ministry of Women and Child Development implements Integrated Child Development Services (ICDS) Scheme to control malnourishment through Anganwadis but it hardly reaches in tribal areas.

Hence, it is high time to pay more and concerted attention for the removal of hunger, malnutrition, anaemia amongst the children, girl child including adolescent girls, pregnant and lactating women in tribal areas of Maharashtra and other parts of the Country so as to prevent starvation deaths in such areas.

Hence this Bill.

RAJKUMAR DHOOT

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FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for sitting up of a Nodal Agency for the purposes of the Bill.

Clause 5 of the Bill makes it mandatory for the Central Government to provide requisite funds for carrying out the purposes of this Bill. The Bill, if enacted will involve expenditure from the Consolidated Fund of India. It is not possible to quantify the expenditure at this stage but it is estimated that a sum of rupee One Lakh Crore may involve as recurring expenditure per annum. A sum of rupee fifty Crore may also involve as non-recurring expenditure for creating assets for implementation of the provisions of this Bill.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

## V

## BILL NO. XV OF 2017

*A Bill to provide for the prohibition of growing water intensive crops and setting up of thermal power plants and other large scale water intensive industries in water scarce regions of Marathwada, Vidharbha, Bundelkhand and such other regions in eastern and southern parts of the country and for the promotion of growing less water consuming crops particularly those developed by Indian Council of Agricultural Research and such other bodies and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India, as follows:—

**1.** (1) This Act may be called the Water Scarce Regions of Marathwada, Vidharbha, Bundelkhand and in Eastern and Southern Parts (Prohibition of Growing Water intensive Crops and Setting up of Thermal Power Plants and other large scale water intensive Industries) Act, 2017.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions.

2. In the Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "Council" means Indian Council Agricultural Research set up by the Government of India;

(c) "Water intensive crops" means those crops which require large quantities of water for growing them and declared as water intensive by the Central Government by notification in the Official Gazette, of its own or as recommended by the Council.

Prohibition of growing water intensive crops and setting up of thermal power plants and other large scale water consuming industries in water scarce regions.

3. (1) Notwithstanding anything contained in any other law for the time being in force or any decree of any Court of Memorandum of Understanding between the appropriate Government and any company or firm or any permission accorded by any authority or agency of the Government, growing of water intensive crops and setting up of thermal power plants and other large scale water intensive industries in water scarce regions in Marathwada, Vidharbha, Bundelkhand and such other regions, is hereby prohibited.

(2) It shall be the duty of the appropriate Government to ensure the compliance of the provisions of this Act.

(3) It shall be the duty of the appropriate government and council to develop less water consuming cereals for water scarce regions and promote adoption of diversifying cropping patterns and modern agronomic practices in such regions.

Penalty.

4. Whoever contravenes any of the provisions of this Act shall be punishable with simple imprisonment of six months and with fine not less than two lakh rupees but which may extend to five lakh rupees.

Overriding effect of the Act.

5. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to remove difficulties.

6. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of the difficulty and any such order shall be final.

Power to make rules.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

## STATEMENT OF OBJECTS AND REASONS

Marathwada, Vidharbha and Madhya Maharashtra regions in the State of Maharashtra, Bundelkhand in Madhya Pradesh and Uttar Pradesh and certain other regions in Karnataka, Telangana, Andhra Pradesh, Tamil Nadu, Jharkhand, Chhattisgarh etc. are water scarce and drought prone regions. Of late these regions are getting scanty rainfall and levels of groundwater are depleting very fast. In these regions even drinking water is a luxury. Consistent drought conditions have brought hunger, starvation, suicide by farmers, economic backwardness and other miseries in these areas.

As per study conducted by Indian Institute of Tropical Meteorology, Pune and the Indian Institute of Science, Bengaluru, the large impact of Marathwada drought in the year 2015 is a reflection of poor management of water resources and agriculture. It is also a fact that in these regions, for earning more money, farmers are lured to sow water intensive crops such as sugarcane, paddy etc. Mostly the groundwater is used in raising these crops leading to severe drought and water scarcity.

Similarly, large quantities of water is required in thermal power plants for cooling and various other purposes. Various Industries particularly producing mineral water, colas etc. also use large quantities of water. Such power plants and industries need to be discouraged in water scarce regions. The study which has been referred to above has advocated adoption of sustainable strategies consistent with the nature variability for rainfed agriculture such as diversification with pulses and water resource management. Farmers may be given advisories for diversifying cropping pattern from water intensive crops to pulses, oilseeds, maize and agro forestry and adoption of modern agronomic practices like raised bed sowing, alternate furrow irrigation, sprinkler irrigation, drip irrigation, mulching etc.

Several drought tolerant varieties of paddy have been developed in the country. Farmers may be advised to go for sowing these varieties. It is learnt that in Indonesia drought tolerant sugarcane is grown in a big way. This may be tested in our country so that we do not have to face the shortage of sugar. However, in water scarce regions growing of water intensive crops and setting up of thermal power plants and other large scale water intensive industries have to be banned.

Hence this Bill.

RAJKUMAR DHOOT

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.



## VI

## BILL NO. XIII OF 2017

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2017.

Short title and  
commencement.

(2) It shall come into force with immediate effect.

2. After article 24A of the Constitution, the following article shall be inserted namely:—

Insertion of  
new article  
24A.

“24A. (1) All citizens shall have the right to adequate contamination free potable water, swachhata and sanitation.

Right to  
contamination  
free potable  
water,  
*swachhata*  
and  
sanitation.

(2) The State shall take steps by suitable legislation or schemes or in any other way to provide adequate contamination free potable water, swachhata and sanitation to every citizen.

(3) The Union Government shall provide funds required for the implementation of the right conferred under clause (1)”.

## STATEMENT OF OBJECTS AND REASONS

Water is essential for the survival of all living things be it humans, animals, insects, reptiles, trees, plants etc. Water is also required for other necessities of life and cleanings. It is also required for irrigation, producing electricity etc. But unfortunately there is acute shortage of water particularly potable water though Seventy per cent of our earth is covered with water mostly of the Oceans. Mother nature also blesses the earth with adequate water in the form of rain and snow but most of it goes waste due to lack of conservation. In fact the pathetic condition today is that people are forced to drink water from stagnated ponds in some places from drains and such other sources. Most of the people particularly in rural India are compelled to consume ground water which is often contaminated with dangerous arsenic, fluoride, zinc, iron and such other metals and minerals which cause various diseases affecting the bones and other parts of the body as they have no other source of potable water.

Then there are drought prone and water scarce regions like Marathwada, Vidharbha and Madhya Maharashtra, Bundelkhand and areas in Eastern, Western and Southern parts of the Country where drinking water is a luxury. Sanitation is another requirement for healthy life of the people. The present Government has launched nationwide *Swachhata Abhiyan* but much more needs to be done in this regard because heaps of waste can be seen everywhere including the National Capital.

In the recent past the Supreme Court of India has interpreted article 21 of the Constitution as encompassing the right to food, safe water and sanitation as part of right to life. Though Parliament has enacted a law to provide food to every citizen, right to contamination free water and sanitation does not find any clear mention in either the constitution or any other law of the land. Though there is no denying the fact that Union Government and Governments of the States are making consistent efforts to provide potable water and sanitation facilities to the citizens but much more desired to be done.

If the right to contamination free potable water, *Swachhata* and sanitation is made fundamental right the Union and State Governments will be forced to provide potable water and sanitation to all the citizens otherwise citizens can go to courts for enforcement of their fundamental right. This deterrence will force the Union and States to prepare comprehensive potable water and Sanitation schemes and implement them more seriously.

Hence this Bill.

RAJKUMAR DHOOT

## FINANCIAL MEMORANDUM

Clause 2 of the Bill provides right to contamination free potable water, *Swachhata* and sanitation to all the citizens. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is not possible to quantify the expenditure at this juncture. However, it is estimated that a sum of rupees one thousand crore may involve as recurring expenditure per annum.

## VII

### BILL NO. XIX OF 2017

*A Bill to provide for regulation and control of gymnasiums and fitness centres which are engaged in activities, such as giving training on weight lifting and body building and conduct courses for weight reduction and proper nutrition in the country and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Gymnasiums and Fitness Centres (Regulation) Act, 2017.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the State Government and in all other cases the Central Government;

(b) "competent authority" means any office or officer notified by the appropriate Government under section 4, to perform functions assigned under this Act;

(c) "gymnasium or fitness centre" means any establishment by whatever name called engaged in giving training on weight lifting, body building and giving nutritional advice on fitness and weight reduction;

(d) "instructor" means any person engaged for giving training on weights, body building and nutritional advice to members enrolled in any gymnasium or fitness centre;

(e) "member" means any person enrolled with any gymnasium or fitness centre; and

(f) "prescribed" means prescribed by rules made under this Act.

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette appoint, no person or establishment shall run a gymnasium or a fitness centre without prior registration with the competent authority.

Compulsory registration of gymnasium and fitness centres.

(2) Any person or establishment running a gymnasium and fitness centre before the commencement of this Act shall apply for registration to the competent authority within a period of forty-five days from the date of commencement of this Act in such form and manner as may be prescribed.

4. (1) The appropriate Government shall, by notification in the Official Gazette, appoint a competent authority for the purposes of registration of gymnasiums and fitness centres within its jurisdiction.

Procedure for Registration.

(2) On receipt of any application for registration of gymnasium or the fitness centres, the competent authority shall scrutinize the application and may call for such other information or documents from the applicant as may be prescribed.

(3) The competent authority shall, before registering any gymnasium or the fitness centre, inspect the site to have the first hand information of the infrastructure available with the gymnasium or the fitness centre and the compliance of the norms and standards fixed by the appropriate Government in this regard.

(4) The competent authority shall, after being satisfied with the various requirements under this Act, grant a registration certificate to the applicant in such manner and form as may be prescribed which shall be valid for two years.

(5) The competent authority shall renew the registration only after re-inspecting the gymnasium or the fitness centres and on fulfilment of requirements fixed in this behalf by the appropriate Government under this Act.

(6) The competent authority may refuse to register a gymnasium or fitness centre or renew its registration if it fails to comply with the norms and standards fixed by the appropriate Government:

Provided that in case of non-registration or non-renewal of registration of a gymnasium or a fitness centre, the competent authority shall record reasons in writing and communicate the same to the applicant.

(7) The competent authority shall take a decision on the application filed under sub-section (2) within a period of thirty days.

Appropriate Government to prescribe norms for gymnasium and fitness centres.

**5.** The appropriate Government shall,—

- (a) fix the fee to be charged by the gymnasium and fitness centres from members for various activities;
- (b) prescribe minimum qualification for instructor in the gymnasium and fitness centre;
- (c) fix the instructor-member ratio for gymnasium and fitness centres;
- (d) lay down norms for minimum infrastructure for starting and running gymnasium and fitness centres; and
- (e) prescribe such other norms as may be necessary for the purpose.

Penalty.

**6.** Whoever contravenes the provisions of this Act or the rules made thereunder shall be punishable with imprisonment for a term which may extend to one year and also with fine which may extend to five lakhs rupees.

Offences by a company.

**7. (1)** Where a contravention of any of the provisions of this Act or any rule, direction or order made thereunder has been committed by a company, every person who, at the time the contravention was committed, was in charge of and was responsible to the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention was committed without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purpose of this section:—

- (i) "company" means any body corporate and include a firm or other association of individuals; and
- (ii) "director", in relation to a firm, means a partner in the firm.

Power to remove difficulties.

**8.** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

Overriding effect of the Act.

**9.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force on the subject and save aforesaid the provisions of the Act shall be in addition to and not derogation of any other law for the time being in force.

Power to make rules.

**10. (1)** The Central Government may by notification in the Official Gazettee make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the

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expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have affect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

With the increase in the awareness among the public to have good health and physique, gymnasium and fitness centres are mushrooming in every nook and corner of big cities. Some big fitness centres have branches in many parts of the country, including small towns. These gymnasiums and fitness centres charge a hefty fee from their members who with a view to have better looks and physique spend the money. Many of these gymnasiums and fitness centres are not having adequate infrastructure to run their activities and are operating from small room, garage, terrace etc. The activities of body building and weight lifting is closely linked with the diet of a person and if the person is not advised about the proper diet, it may have an adverse effect on the health of a person. This is a highly specialised job which must be carried out by professionals under strict supervision and in hygienic environment. Many of the so-called gymnasiums are not having, qualified instructors and are running without any nutritionist or dietician. These gymnasiums are just fleecing their members besides playing with the health of lakhs of people. As of now, there is no effective law to regulate the operations of gymnasiums and fitness centres. Therefore, it is high time to regulate the activities of these gymnasiums to protect the interest of public at large.

Hence this Bill.

DR. T. SUBBARAMI REDDY



## FINANCIAL MEMORANDUM

Clause 4 of Bill provides that the appropriate Government shall appoint competent authority for the purposes of registration of gymnasium and fitness centres. The expenditure for appointing competent authorities in respect of Union Territories shall be borne by the Central Government. It is expected that an annual recurring expenditure of rupees twenty crore may be involved.

Non-recurring expenditure to the tune of rupees two crore is also likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the matter will relate to details only, the delegation of powers is of normal character.

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SHUMSHER K. SHERIFF,  
*Secretary-General.*